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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-134

13 **DAN LEE CLENDENIN**
a.k.a. Danny Lee Clendenin
a.k.a. Dan L. Clendenin
a.k.a. Dan Clendenin
14 1404 E. Memorial Highway
Harmony, NC 28634

A C C U S A T I O N

15 Registered Nurse License No. 574974

16 Respondent.

17 **PARTIES**

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19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about December 12, 2000, the Board issued Registered Nurse License Number
23 574974 to Dan Lee Clendenin, also known as Danny Lee Clendenin, Dan L. Clendenin, and Dan
24 Clendenin ("Respondent"). Respondent's registered nurse license was in full force and effect at
25 all times relevant to the charges brought herein and expired on February 29, 2008, and has not
26 been renewed.

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1 7. Code section 4060 states, in pertinent part:

2 No person shall possess any controlled substance, except that furnished to a person
3 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
4 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order
5 issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner
6 pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a
7 naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either
8 subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
9 (5) of, subdivision (a) of Section 4052.

10 **COST RECOVERY**

11 8. Code section 125.3 provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **CONTROLLED SUBSTANCE AT ISSUE**

16 9. **Cocaine** is a Schedule II controlled substance as designated by Health and Safety
17 Code section 11055, subdivision (b)(6).

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Disciplinary Action by the North Carolina State Board of Nursing)**

20 10. Respondent is subject to disciplinary action pursuant to Code section 2761,
21 subdivision (a)(4), on the grounds of unprofessional conduct. On or about February 11, 2007,
22 pursuant to the Order to Suspend Following Non-Compliance with Illicit Drug Program ("Order
23 to Suspend") issued by the North Carolina State Board of Nursing ("North Carolina Board"),
24 Respondent's registered nurse license was suspended. A true and correct copy of the Order to
25 Suspend is attached as Exhibit "A" and incorporated herein by reference. The North Carolina
26 Board based the Order to Suspend on Respondent's failure to comply with the requirements of his
27 Illicit Drug Program contract, as follows:

28 a. On July 9, 2007, September 11, 2007, October 9, 2007, October 11, 2007, December
29 20, 2007, and January 24, 2008, Respondent failed to call for his random drug screenings.

30 b. On July 9, 2007, Respondent was selected for a random drug screening and missed
31 the test.

1 c. Respondent failed to provide the details of his missed random drug screening on
2 October 12, 2007, within five days of his receipt of the North Carolina Board's letter dated
3 January 4, 2008.

4 d. Respondent stopped calling for random drug screenings entirely as of January 31,
5 2008.

6 e. When Respondent signed the Illicit Drug Program Contract Section I, he told a
7 representative of the North Carolina Board that he had no previous criminal convictions and no
8 charges were pending. However, on July 13, 2004, Respondent had been charged with felony
9 possession of Cocaine and hit and run/leaving the scene of an accident, as further set forth in
10 subparagraph 11(a), below. Further, Respondent failed to disclose these charges when he
11 renewed his license.

12 f. Respondent failed to notify the North Carolina Board in writing within 5 days that, on
13 October 11, 2007, he had been charged with felony possession of Cocaine, possession of drug
14 paraphernalia, and operating a motor vehicle without a license.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Criminal Convictions)**

17 11. Respondent is subject to disciplinary action pursuant to Code section 2761,
18 subdivision (f), in that he was convicted of crimes which are substantially related to the
19 qualifications, functions, and duties of a registered nurse, as follows:

20 a. On or about July 29, 2004, in the criminal proceeding titled *State of North Carolina v.*
21 *Danny Lee Clendenin* (General Court of Justice, Forsyth County, District Court Division, 2004,
22 No. 04CR 058642), Respondent was convicted by the Court on his plea of guilty to one felony
23 count in violation of G.S. 90-95(D)(2) (possession of Cocaine) and one misdemeanor count in
24 violation of G.S. 20-166(C)(1) (hit/run leaving scene, property damage). The incident upon
25 which the convictions are based occurred on approximately July 13, 2004.

26 b. On or about November 29, 2007, in the criminal proceeding titled *State of North*
27 *Carolina v. Danny Lee Clendenin* (General Court of Justice, Davie County, District Court
28 Division, 2007, No. 07CR 051533), Respondent was convicted by the Court on his plea of guilty

1 to one misdemeanor count in violation of G.S. 90-113.22 (possession of drug paraphernalia). The
2 incident upon which the conviction is based occurred on approximately October 11, 2007.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Possession of a Controlled Substance)**

5 12. Respondent's registered nurse license is subject to disciplinary action pursuant to
6 Code Section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
7 section 2762, subdivision (a), in that on or about July 13, 2004, he possessed the controlled
8 substance Cocaine without a valid prescription from a physician, dentist, podiatrist, optometrist,
9 veterinarian, or naturopathic doctor, in violation of Code Section 4060, as further set forth in
10 subparagraph 10(e), above.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Procuring a License by Fraud, Misrepresentation, or Mistake)**

13 13. Respondent is subject to disciplinary action pursuant to Code Section 2761,
14 subdivision (b), in that he procured his California Registered Nurse License by fraud,
15 misrepresentation, or mistake, as follows:

16 a. On or about November 15, 2000, Respondent submitted an Application for RN
17 Licensure by Endorsement ("application") to the Board.

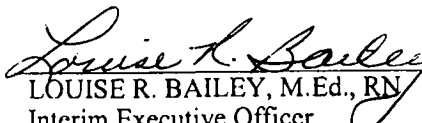
18 b. On or about November 13, 2000, Respondent certified, under penalty of perjury and
19 with the understanding that providing false information or omitting required information was
20 grounds for denial of licensure or license revocation in California, that all of the information
21 provided in connection with the application was true, correct, and complete. With regard to the
22 question on the application that asked, "Have you ever been convicted of any offense other than
23 minor traffic violations?" Respondent marked the "No" box. In fact, on or about November 26,
24 1985, in the criminal proceeding titled *State of North Carolina v. Danny Lee Clendenin* (General
25 Court of Justice, Iredell County, District Court Division, 1985, No. 85CR 014712), Respondent
26 was convicted by the Court on his plea of guilty to one misdemeanor count in violation of G.S.
27 14-72.1(A) (shoplifting, concealment of goods). The incident upon which the conviction is based
28 occurred on approximately November 8, 1985.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 574974, issued to Dan Lee Clendenin, also known as Danny Lee Clendenin, Dan L. Clendenin, and Dan Clendenin;
2. Ordering Dan Lee Clendenin, also known as Danny Lee Clendenin, Dan L. Clendenin, and Dan Clendenin, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/28/09


LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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